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PROGRAMME BUDGET FOR THE BIENNIUM 1994-1995

Conditions of service and compensation for officials other than Secretariat officials

Pension scheme for the members of the International Court of Justice

Twelfth report of the Advisory Committee on Administrative and Budgetary Questions

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General of 10 October 1994 on the pension scheme for the members of the International Court of Justice (ICJ) (A/C.5/49/8). The report of the Secretary-General was submitted pursuant to General Assembly resolution 48/252 B of 26 May 1994. The report reviews the benefits of the members of the Court and reiterates recommendations contained in paragraphs 38 to 40 of the report of the Secretary-General of 14 March 1994 (A/C.5/48/66) submitted to the Assembly at its forty-eighth session. During its consideration of the question, the Committee met with representatives of the Secretary-General and the Registrar of the Court.
2. In paragraph 18 of document A/C.5/49/8, the Secretary-General proposes the implementation of the previously submitted recommendations in two stages. Initially, as from 1 January 1995, the Secretary-General proposes an increase in the annual pension benefit from \$50,000 to \$61,250 and, subsequently, with effect from 1 January 1997, an increase from \$61,250 to 50 per cent of the annual salary. Accordingly, he proposes amendments to the Pension Scheme Regulations for members of the Court reflecting these proposals (see A/C.5/49/8, annexes II and III).
3. The financial implications of the proposals by the Secretary-General are estimated at \$427,100 for the biennium 1994-1995, as summarized in table 2 of the report. Budgetary provisions for pensions for former judges are included in section 5 of the programme budget for the biennium 1994-1995, under common costs



of judges. The requirements for pensions are currently estimated at \$1,750,000 to cover the pension benefits of retired judges and widows of judges, in accordance with General Assembly resolution 45/250 B. 1/ The Advisory Committee notes that "the Secretary-General is of the view that the estimated requirements of \$427,100 arise from inflationary factors" (A/C.5/49/8, para. 22). The Committee disagrees with this categorization, as the additional requirements would result from proposed changes in the current practice. Depending on what may be decided upon as a pension scheme for the International Tribunals for the former Yugoslavia and Rwanda, the financial implications of these proposed changes may be much greater than \$427,100.

4. As indicated in paragraph 9 of its previous report, dated 31 March 1994 (A/48/7/Add.6), the Advisory Committee believed that it was not necessary to recommend a change such as that proposed by the Secretary-General in A/C.5/48/66 in regard to pension entitlements of the members of the Court.

5. The Committee based its recommendation, *inter alia*, on the fact that in its last review of the conditions of service of the judges, which took place in December 1990, the Committee had recommended a significant increase in the annual salary of the members of the Court. The Committee had recommended that the annual salary of the members of the Court be set at \$145,000, effective 1 January 1991. 2/ The revised annual salary incorporated the previously granted cost-of-living supplement. The previous annual compensation of the members of the Court was \$101,750, comprising a base salary of \$82,000 and a cost-of-living supplement of \$19,750. In order to correct the anomaly of a disproportionate increase in pensions as the result of the salary increase, the Committee recommended that the pension of the judges should no longer be expressed as a percentage of base salary. Rather, the pension entitlement of the judges elected to serve nine years should be set at \$50,000 a year. A judge who was re-elected should receive an additional \$250 per month for each further month of service up to a maximum pension of \$75,000 per year. The pension would be subject to review whenever the annual salary of the members of the Court was reviewed. 3/ These recommendations were approved by the General Assembly in its resolution 45/250 of 21 December 1990.

6. As indicated in paragraph 1 above, the report of the Secretary-General contained in document A/C.5/49/8 is basically a reiteration of the recommendations contained in the previous report (A/C.5/48/66). No new recommendations or analyses are put forward that would lead the Advisory Committee to a conclusion different from that expressed in its previous report. Under the circumstances, the Advisory Committee reiterates its belief that it is not necessary at this time to recommend a change in the pension benefits of the members of the Court.

7. The Advisory Committee points out that the request by the General Assembly in resolution 48/252 B for a study of the pension scheme for the members of the International Court of Justice has not been fully addressed. In this connection, the Advisory Committee recalls that in accordance with Assembly resolution 48/252 A of 26 May 1994, the emoluments and other conditions of service for the members of the Court will next be reviewed at the fiftieth session of the General Assembly.

8. The Advisory Committee therefore recommends that the Secretary-General include a comprehensive review of the pension scheme for the members of the International Court of Justice in his report to be submitted to the General Assembly at its fiftieth session. That report should include, on the advice of qualified actuaries, a review of benefit provisions, including those of retirement age, minimum period of service, rate of accumulation of pension benefits, early retirement benefits, contributory participation, cost-of-living adjustments and retroactive rights of pensioners. In a related matter, the broader review of the conditions of service should also include an analysis of the practice of the Court with respect to article 16, paragraph 1 of its Statute, which provides that "no member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature".

Notes

1/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 6 (A/48/6), vol. I, para. 5.12.

2/ Ibid., Forty-fifth Session, Supplement No. 7 (A/45/7 and Add.1-14), document A/45/7/Add.10, para. 13.

3/ Ibid., para. 15.
